



House Bill No. 7067

Public Act No. 07-117

**AN ACT CONCERNING THE APPOINTMENT AND POWERS OF
CONSERVATORS AND SPECIAL LIMITED CONSERVATORS WITH
RESPECT TO PSYCHIATRIC TREATMENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17a-543 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) No patient shall receive medication for the treatment of the psychiatric disabilities of such patient without the informed consent of such patient, except in accordance with procedures set forth in subsections (b), (d), (e) and (f) of this section or in accordance with section 17a-543a, 17a-566 or 54-56d.

(b) No medical or surgical procedures may be performed without the patient's written informed consent or, if the patient has been declared incapable of caring for himself or herself pursuant to sections 45a-644 to 45a-662, inclusive, and a conservator of the person has been appointed pursuant to section 45a-650, the written consent of such conservator. If the head of the hospital, in consultation with a physician, determines that the condition of an involuntary patient not declared incapable of caring for himself or herself pursuant to said sections is of an extremely critical nature and [such] the patient is

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incapable of informed consent, medical or surgical procedures may be performed with the written informed consent of: (1) The patient's health care representative; (2) the patient's conservator or guardian, if he or she has one; (3) [such person's] the patient's next of kin; (4) a person designated by the patient pursuant to section 1-56r; or (5) a qualified physician appointed by a judge of the Probate Court. Notwithstanding the provisions of this section, if obtaining the consent provided for in this section would cause a medically harmful delay to a voluntary or involuntary patient whose condition is of an extremely critical nature, as determined by personal observation by a physician or the senior clinician on duty, emergency treatment may be provided without consent.

(c) No psychosurgery or shock therapy shall be administered to any patient without [such] the patient's written informed consent, except as provided in this subsection. Such consent shall be for a maximum period of thirty days and may be revoked at any time. If it is determined by the head of the hospital and two qualified physicians that the patient has become incapable of giving informed consent, shock therapy may be administered upon order of the Probate Court if, after hearing, such court finds that the patient is incapable of informed consent and there is no other, less intrusive beneficial treatment. An order of the Probate Court authorizing the administration of shock therapy pursuant to this subsection shall be effective for not more than forty-five days.

(d) A facility may establish an internal procedure governing decisions concerning involuntary medication treatment for inpatients. Such procedure shall provide (1) that any decision concerning involuntary medication treatment shall be made by a person who is not employed by the facility in which the patient is receiving treatment, provided the selection of such person shall not be made until the patient's advocate has had reasonable opportunity to discuss

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such selection with the facility, (2) written and oral notification to the patient of available advocacy services, (3) notice to the patient and [his] the patient's advocate, if one has been chosen, of any proceeding for the determination of the necessity for involuntary treatment not less than forty-eight hours prior to such proceeding, (4) the right of the patient to representation during any such proceeding, (5) questioning of any witness at any such proceeding including, if requested, one or both of the physicians who made the determination pursuant to subsection (e) of this section concerning the patient's capacity to give informed consent and the necessity of medication for the patient's treatment, and (6) a written decision. If a decision is made in accordance with the standards set forth in this section that a patient shall receive involuntary medication, and there is substantial probability that without such medication for the treatment of the psychiatric disabilities of [such] the patient the condition of the patient will rapidly deteriorate, such involuntary medication may be provided for a period not to exceed thirty days or until a decision is made by the Probate Court under subsection (e) or (f) of this section, whichever is sooner.

(e) (1) (A) If it is determined by the head of the hospital and two qualified physicians that a patient is incapable of giving informed consent to medication for the treatment of [such] the patient's psychiatric disabilities and such medication is deemed to be necessary for [such] the patient's treatment, a facility may utilize the procedures established in subsection (d) of this section and may apply to the Probate Court for appointment of a conservator of the person with specific authority to consent to the administration of medication or, in a case where a conservator of the person has previously been appointed under section 45a-650, the facility or the conservator may petition the Probate Court to grant such specific authority to the conservator. The Probate Court may appoint a conservator with such specific authority pursuant to this subparagraph if the court finds by

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clear and convincing evidence that the patient is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disability and such medication is necessary for the patient's treatment.

(B) The conservator shall meet with the patient and the physician, review the patient's written record and consider the risks and benefits from the medication, the likelihood and seriousness of adverse side effects, the preferences of the patient, the patient's religious views, and the prognosis with and without medication. After consideration of such information, the conservator shall either consent to the patient receiving medication for the treatment of the patient's psychiatric disabilities or refuse to consent to the patient receiving such medication.

(2) The authority of a conservator to consent to the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that the patient continues to be incapable of giving informed consent to medication for the treatment of [such] the patient's psychiatric disabilities and such medication is deemed to be necessary for [such] the patient's treatment, the authority of the conservator to consent to the administration of medication may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing upon application by the head of the hospital. Prompt notice of the order shall be given to the patient, conservator and facility.

(f) (1) If it is determined by the head of the hospital and two qualified physicians that (A) a patient is capable of giving informed consent but refuses to consent to medication for treatment of [such] the patient's psychiatric disabilities, (B) there is no less intrusive beneficial

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treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the facility may utilize the procedures established in subsection (d) of this section and may apply to the Probate Court to authorize the administration to the patient of medication for the treatment of the patient's psychiatric disabilities, despite the refusal of the patient to consent to such medication. The Probate Court may authorize the administration of medication to the patient pursuant to this subdivision if the court finds by clear and convincing evidence that (i) the patient is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (ii) there is no less intrusive beneficial treatment, and (iii) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm.

(2) An order authorizing the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that (A) the patient continues to be capable of giving informed consent but refuses to consent to medication for treatment of [such] the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the order may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing. Prompt notice of the order shall be given to the patient and facility.

(g) If a decision has been made to administer involuntary

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medication to a patient pursuant to subsection (d) of this section, the patient may petition the Probate Court to expedite the hearing on an application filed by the facility pursuant to subsection (e) or (f) of this section or, if no application has been filed, to hold a hearing to decide whether to allow the administration of involuntary medication. Either hearing shall be held within fifteen days after the date of the patient's petition.

(h) For the purposes of this section, "voluntary patient" means any patient sixteen years of age or older who applies in writing for, and is admitted to, a hospital for observation, diagnosis or treatment of a mental disorder.

(i) Unless there is a serious risk of harm to the patient or others, based upon the patient's past history or current condition, nothing in this section authorizes any form of involuntary medical, psychological or psychiatric treatment of any patient who in the sincere practice of his or her religious beliefs is being treated by prayer alone in accordance with the principles and practices of a church or religious denomination by a duly accredited practitioner or ordained minister, priest or rabbi thereof. The Department of Mental Health and Addiction Services shall adopt regulations, in accordance with chapter 54, to implement the purposes of this subsection.

Sec. 2. Section 17a-543a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) (1) (A) If it is determined by the head of the hospital and two qualified physicians that a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is incapable of giving informed consent to medication for the treatment of [such] the patient's psychiatric disabilities and such medication is deemed to be necessary for [such] the patient's treatment, the facility in which [such] the patient is placed

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may petition the probate court for the district in which such facility is located for appointment of a special limited conservator with specific authority to consent to the administration of medication, provided an employee of such facility shall not be appointed or serve as the special limited conservator. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may appoint a special limited conservator with such specific authority pursuant to this subparagraph if the court finds by clear and convincing evidence that the patient is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is necessary for the patient's treatment. The Probate Court may grant the special limited conservator specific authority to consent to the release of the patient's medical records to such facility if the court finds by clear and convincing evidence that the patient is unwilling or unable to release such records and such records are necessary to make decisions concerning the patient's treatment.

(B) The special limited conservator shall meet with the patient and the physician, review the patient's written record and consider the risks and benefits from the medication, the likelihood and seriousness of adverse side effects, the preferences of the patient, the patient's religious views, and the prognosis with and without medication. After consideration of such information, the special limited conservator shall either consent to the patient receiving medication for the treatment of the patient's psychiatric disabilities or refuse to consent to the patient

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receiving such medication.

(2) The authority of a special limited conservator to consent to the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that the patient continues to be incapable of giving informed consent to medication for the treatment of [such] the patient's psychiatric disabilities and such medication is deemed to be necessary for [such] the patient's treatment, the authority of the special limited conservator to consent to the administration of medication may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing upon application by the head of the hospital. Prompt notice of the order shall be given to the patient, special limited conservator and facility.

(3) The reasonable compensation of a special limited conservator appointed under this subsection shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) (1) If it is determined by the head of the hospital and two qualified physicians that (A) a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is capable of giving informed consent but refuses to consent to medication for treatment of [such] the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the facility in which [such] the patient is placed may petition the probate court for the district in which such facility is located to authorize the administration to the patient of medication for the treatment of the patient's

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psychiatric disabilities, despite the refusal of the patient to consent to such medication. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may authorize the administration of medication to the patient if the court finds by clear and convincing evidence that (I) the patient is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (II) there is no less intrusive beneficial treatment, and (III) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm.

(2) An order authorizing the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that (A) the patient continues to be capable of giving informed consent but refuses to consent to medication for treatment of [such] the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the order may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing. Prompt notice of the order shall be given to the patient and facility.

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(c) Unless there is a serious risk of harm to the patient or others, based upon the patient's past history or current condition, nothing in this section authorizes any form of involuntary medical, psychological or psychiatric treatment of any patient who in the sincere practice of his or her religious beliefs is being treated by prayer alone in accordance with the principles and practices of a church or religious denomination by a duly accredited practitioner or ordained minister, priest or rabbi thereof.

(d) Nothing in this section shall be construed to limit the application of sections 45a-644 to 45a-663, inclusive, except as specifically provided in this section.

Approved June 11, 2007